

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARK A. FREGIA,

Plaintiff,

v.

YUCUI CHEN, et al.,

Defendants.

No. 1:20-cv-01024-DAD-EPG (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
CERTAIN CLAIMS

(Doc. No. 17)

Plaintiff Mark A. Fregia is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action brought pursuant to 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On April 30, 2021, the assigned magistrate judge screened plaintiff's first amended complaint ("FAC") and found that plaintiff had stated claims against defendants Lisa Gosso, Dr. Marcy Johnson, and Dr. Yuchui Chen for deliberate indifference to his serious medical needs in violation of the Eighth Amendment and a claim against defendant Gosso for retaliation in violation of the First Amendment, but that plaintiff had not stated a claim for retaliation against defendant Chen (the only remaining claim alleged in his FAC).¹ (Doc. No. 17 at 8–10.)

¹ The court notes that the docket in this action reflects that three other defendants (Tirath Gill, C. Cryer, and S. Gates) were named in plaintiff's original complaint, but those defendants were not named in plaintiff's FAC, nor does plaintiff assert any claims against those defendants in his FAC. Thus, the court will direct the Clerk of Court to terminate them as named defendants in this action.

1 Accordingly, the magistrate judge issued findings and recommendations recommending that this
2 case proceed only on those claims found to be cognizable in the screening order and that
3 plaintiff's retaliation claim against defendant Chen be dismissed. (*Id.* at 10.) The pending
4 findings and recommendations were served on plaintiff and contained notice that any objections
5 thereto were to be filed within twenty-one (21) days after service. (*Id.*) To date, no objections
6 have been filed and the time in which to do so has now passed.

7 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a
8 *de novo* review of the case. Having carefully reviewed the entire file, the court finds the findings
9 and recommendations to be supported by the record and by proper analysis.

10 Accordingly:

- 11 1. The findings and recommendations issued on April 30, 2021 (Doc. No. 17) are
12 adopted in full;
- 13 2. This action proceeds only on plaintiff's claims against defendants Gosso, Johnson,
14 and Chen for deliberate indifference to his serious medical needs in violation of
15 the Eighth Amendment, and on plaintiff's claim against defendant Gosso for
16 retaliation in violation of the First Amendment;
- 17 3. All other claims are dismissed from this action due to plaintiff's failure to state a
18 claim upon which relief may be granted;
- 19 4. This action is referred back to the magistrate judge for proceedings consistent with
20 this order; and
- 21 5. The Clerk of the Court is directed to terminate defendants Tirath Gill, C. Cryer,
22 and S. Gates as named defendants in this action.

23 IT IS SO ORDERED.

24 Dated: **June 9, 2021**

25 
UNITED STATES DISTRICT JUDGE